

EXHIBIT D

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Elhadji Mbaye, Modou Diop, Tahirou Diakite,
and Talla Samb, *on behalf of themselves and
others similarly situated in the proposed FLSA
Collective Action and in the proposed Class,*

Plaintiffs,

- against -

RCI Hospitality Holdings, Inc., Peregrine
Enterprises Inc. (d/b/a Rick's Cabaret New York),
RCI 33rd Ventures, Inc. (d/b/a Hoops Cabaret and
Sports Bar), 48 West 33rd Street Corp. (d/b/a
Hoops Cabaret and Sports Bar), RCI Dining
Services (37th Street), Inc. (d/b/a Vivid Cabaret),
Eric Langan, Kes Senevi,

Defendants.

Case No. 1:23-cv-02967-VSB

**DEFENDANTS' THIRD RESPONSES AND OBJECTIONS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

RCI Hospitality Holdings Inc., fka Rick's Cabaret International, Inc. ("RCIHH");
Peregrine Enterprises, Inc., dba Rick's Cabaret New York ("Rick's Cabaret"); RCI 33rd
Ventures, Inc. ("RCI 33rd"); 48 West 33rd Street Corp. ("48 West 33rd Street"); RCI Dining
Services (37th Street), Inc. ("Vivid Cabaret"); Eric Langan ("Mr. Langan"); and Kes Senevi
("Mr. Senevi") (collectively, "Defendants"), hereby amend their responses to Plaintiffs' First Set
of Interrogatories dated November 27, 2023 (the "Interrogatories"), as follows:

RESERVATION OF RIGHTS

1. Any production of documents or responses to the Interrogatories is subject to
Defendants' right to object to the competency, relevancy, materiality, or admissibility of any
document or answer in any proceeding in this or any other action.

2. The responses and objections herein are based on Defendants' present knowledge, information and belief, and therefore, Defendants reserve their rights to amend, revise, correct, and/or clarify any of the answers or objections herein.

3. Inadvertent production of privileged or otherwise objectionable documents or information shall not be deemed a waiver of any such privilege.

GENERAL OBJECTIONS AND RESPONSES

1. Defendants object to Plaintiffs' Interrogatories insofar as they are overly broad, unduly burdensome, or seek information not relevant and/or not reasonably calculated to lead to the discovery of admissible evidence.

2. Defendants object to Plaintiffs' Interrogatories insofar as they seek information in the possession, custody or control of entities or parties other than Defendants.

3. Defendants object to Plaintiffs' Interrogatories insofar as they seek information that is privileged or protected from discovery by the attorney-client privilege.

4. Defendants object to Plaintiffs' Interrogatories insofar as they seek information that is privileged or protected from discovery under Federal Rule of Civil Procedure 26(b)(3), in that the information was prepared in connection with or in anticipation of litigation or arbitration and/or constitutes the work product, mental impressions, conclusions, opinions or legal theories of counsel or other representatives of Defendants.

5. Defendants object to Plaintiffs' Interrogatories insofar as they seek to impose any obligation in addition to those imposed by the Federal Rules of Civil Procedure or the Local Rules of the United States District Court for the Southern District of New York.

6. Defendants object to Plaintiffs' Interrogatories insofar as they are unintelligible, vague or otherwise unclear as to the precise information sought.

7. Defendants object to Plaintiffs' Interrogatories to the extent that they seek facts, documents, or information already known to, or equally available to, Plaintiffs.

8. Defendants object to the use throughout Plaintiffs' Interrogatories of words and phrases that are vague, ambiguous, not sufficiently definite or susceptible to varying interpretations. Defendants' responses are based upon their understanding of such words and phrases.

9. Defendants object to Plaintiffs' Interrogatories to the extent that they seek the production or disclosure of proprietary or confidential information and documents.

10. Defendants' answering or responding to any of Plaintiffs' Interrogatories shall not be construed as a waiver of any of Defendants' specific or general objections, whether or not such objection is reiterated in the response to a given Interrogatory, and Defendants reserve the right to assert any such objection to any information or document disclosed or produced.

11. Defendants object to the Definitions and Instructions within Plaintiffs' Interrogatories to the extent they are vague, ambiguous, and overbroad.

12. These General Objections and Responses are incorporated into Defendants' response to each Interrogatory below, whether or not expressly reiterated.

**THIRD AMENDED RESPONSES AND OBJECTIONS TO PLAINTIFFS'
INTERROGATORIES**

3. List the names, addresses, emails, and telephone numbers of all current and former non-exempt bathroom attendants employed by Defendants on or after the date that is six (6) years before the filing of the Complaint ("Covered Employees").

AMENDED RESPONSE: *See* General Objections. Defendants further object to this Interrogatory on grounds that it is vague, ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Interrogatory as premature as a class action has not been certified. Defendants further object to this Interrogatory to the extent that it seeks the disclosure of private and confidential information relating to third parties who are not subject to this action. Defendants further object to this Interrogatory to the extent that it is beyond the scope permitted by the Local Rules

of the United States District Court for the Southern District of New York, Local Civil Rule 33.3. Subject to and without waiving the foregoing objections, Defendants refer to the Collective Action Spreadsheet produced previously in this litigation for the contact information for restroom attendants who worked at the Clubs since April 8, 2020, excluding Plaintiffs who can be reached through their attorneys.

5. Please list and describe all documents that inform the procedures and methods by which Defendants record the time and/or hours worked by Plaintiffs and Covered Employees.

AMENDED RESPONSE: *See* General Objections. Defendants further object to this Interrogatory on grounds that it is vague, ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Interrogatory insofar as it assumes that Plaintiffs were employees prior to August 2023 which they were not. Defendants further object to this Interrogatory as premature as a class has not been certified. Defendants further object to this Interrogatory to the extent that it seeks the disclosure of private and confidential information relating to third parties who are not subject to this action. Defendants further object to this Interrogatory to the extent that it is beyond the scope permitted by the Local Rules of the United States District Court for the Southern District of New York, Local Civil Rule 33.3. Subject to and without waiving the foregoing objections, Defendants state that there is no information responsive to this Interrogatory related to any time period prior to August 2023, and that they will produce responsive, non-privileged documents in their possession, custody, or control related to the time period after August 2023, if any, by April 22, 2024.

6. Please list and describe all documents that inform the procedures and methods by which Defendants can adjust hours worked, manually or automatically, by Plaintiffs and Covered Employees.

AMENDED RESPONSE: *See* General Objections. Defendants further object to this Interrogatory on grounds that it is vague, ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Interrogatory insofar as it assumes that Plaintiffs were employees prior to August 2023 which they were not. Defendants further object to this Interrogatory as premature as a class has not been certified. Defendants further object to this Interrogatory to the extent that it seeks the disclosure of private and confidential information relating to third parties who are not subject to this action. Defendants further object to this Interrogatory to the extent that it is beyond the scope permitted by the Local Rules of the United States District Court for the Southern District of New York, Local Civil Rule 33.3. Subject to and without waiving the foregoing objections, Defendants state that they will produce responsive, non-privileged documents in their possession, custody, or control related to the time period after August 2023, if any, by April 22, 2024.

10. (a) Please identify all persons who were managers or assistant managers at each of the worksites where Plaintiffs performed work. Please specifically identify all documents relied upon in your response.

AMENDED RESPONSE: *See* General Objections. Defendants further object to this Interrogatory on grounds that it is vague, ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Interrogatory insofar as it assumes that Plaintiffs were employees prior to August 2023 which they were not. Defendants further object to this Interrogatory as premature as a class has not been certified. Defendants further object to this Interrogatory to the extent that it seeks the disclosure of private and confidential information relating to third parties who are not subject to this action. Defendants further object to this Interrogatory to the extent that it is beyond the scope permitted by the Local Rules of the United States District Court for the Southern District of New York, Local Civil Rule 33.3. Subject to and without waiving the foregoing objections, below is a list of individuals who are or were managers of Vivid Cabaret, Hoops Cabaret, and Rick's Cabaret New York between 2017 and 2023.

Vivid Cabaret	Hoop's Cabaret	Rick's Cabaret NYC
Charles Castro	Thomas Campbell	Terrence Skelly
Erica Ramos Yuille	Thomas Tripoulas	Oscar Abreu
Christopher O'Dell	Ajbabe Green	Tito Martinez
Thomas Mabey	Steven Deangelo	Frederick Garrido
Michael Morrison	Chad Davis	Joe Dimaria
Jean-Luc Santin	Joseph Hidalgo	Steven Deangelo
Stephanie Arbelaez	Michael Hosang	Jola Crapanzano
Jessica Rivas	Tom Mabey	Paul Marrone
Ursela Hybridge	Jayson Marguiles	Jayson Margulies
Katherine Takis	Diana Pareja	Jennifer Lewis
Bo Pedersen	Katherine Takis	Tyrone Bishop
Micheal Ledwith	Andrew Walters	Diane Estrada
	Laura Rice	Amanda Martinez
	Alina Mesionshink	Selenia Weinstein
	Lana Ceh	Heather Morelli
	Julia Borodina	Sky Kouzious
	Yanina Broskaya	Timothy Ledwith
		Bo Pedersen

11. Identify the employees of the Defendants or other person acting on the behalf of Defendants, responsible for the following tasks:

- a. hiring or firing employees;
- b. determining employees' compensation;

- c. determining employees' work hours or work schedules;
- d. determining employees' status as exempt or nonexempt;
- e. calculating employees' time worked;
- f. preparing the payroll;
- g. maintaining payroll records; and
- h. paying employees.

AMENDED RESPONSE: *See* General Objections. Defendants further object to this Interrogatory on grounds that it is vague, ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Interrogatory on the grounds that it seeks confidential information. Defendants further object to this Interrogatory to the extent that it is beyond the scope permitted by the Local Rules of the United States District Court for the Southern District of New York, Local Civil Rule 33.3. Subject to and without waiving the foregoing objections, Defendants identify Mustafa Diop as the individual currently responsible scheduling certain restroom attendants. Defendants will further amend these responses by April 22, 2024 to produce additional responsive, non-privileged information, if any.

13. Identify the employee(s) of corporate Defendants or other person acting on the behalf of Defendants, who was responsible for submitting employee information to any other third-party payroll companies for processing.

AMENDED RESPONSE: *See* General Objections. Defendants further object to this Interrogatory on grounds that it is vague, ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Interrogatory insofar as it assumes that Plaintiffs were employees prior to August 2023 which they were not. Defendants further object to this Interrogatory as premature as a class has not been certified. Defendants further object to this Interrogatory to the extent that it seeks the disclosure of private and confidential information relating to third parties who are not subject to this action. Defendants further object to this Interrogatory to the extent that it is beyond the scope permitted by the Local Rules of the United States District Court for the Southern District of New York, Local Civil Rule 33.3. Subject to and without waiving the foregoing objections, Defendants will further amend these responses by April 22, 2024 to produce additional responsive, non-privileged information, if any.

Dated: New York, New York
April 15, 2024

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